REMARKS

This is a complete response to the outstanding Office Action mailed March 11, 2008. Claims 1-3, 5, 7, 20, and 21 have been amended. No new matter has been added. Upon entry of the enclosed claim amendments, claims 1-21 remain pending in the present application.

I.   Response to Claim Rejections Based on Anticipation

In the Office Action, claims 1, 3, 4, and 21 have been rejected under 35 U.S.C. § 102(b) by U.S. Patent No. 6,151,593 to Cho et al. (hereinafter, "Cho").

A. Claim 1

Amended independent claim 1 reads, in relevant part:

obtaining a **second and subsequent absolute keystroke timing data** of a user while the user types a passphrase and responsive to said received second and subsequent absolute keystroke timing data, **merging said second and subsequent absolute keystroke timing data with said keystroke timing data template to create an updated, merged keystroke timing data template;** and **verifying** said second and subsequent absolute keystroke timing data **against said updated, merged keystroke timing data template. (Emphasis Added)**

Applicant respectfully submits that Cho fails to disclose, teach, or suggest all elements of the rejected claim for at least the reasons that follow. Specifically, Cho fails to disclose the

above-emphasized elements of amended claim 1. The Cho reference does not disclose or teach using "absolute" timing. Absolute time is defined as "duration, considered independently of any system of measurement or any employment of terms which designate limited portions thereof" (onlinedictionary.datasegment.com). Cho teaches away from "absolute keystroke timing" by disclosing and teaching a timing vector having a "duration of key strokes and interval times between them" (column 3, lines 45-52).

Furthermore, Applicant amended claim 1 to include "merging the second and subsequent absolute keystroke timing data with the keystroke timing data template to create an updated, merged keystroke timing data template." However, Cho discloses a timing vector with a limiting "predetermined threshold" (column 3, line 9) and does not teach or disclose a feature that updates a data template as new data is received. Cho also does not disclose the claimed verification of the "second and subsequent absolute keystroke timing data against the updated, merged keystroke timing data template." Therefore, Applicant respectfully requests reconsideration and withdrawal of the claim 102(b) rejections based on Cho.

The Applicant respectfully submits that since claims 3 and 4 depend on independent claim 1, claims 3 and 4 contain all limitations of independent claim 1. Since independent claim 1 should be allowed, as argued herein, pending dependent claims 3 and 4 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

B. Claim 21

Amended independent claim 21 reads, in relevant part:

obtaining *a second and subsequent absolute keystroke timing data* of a user while the user types a passphrase and responsive to said received second and subsequent absolute keystroke timing data, *merging said second and subsequent absolute keystroke timing data with said keystroke timing data template to create an updated, merged keystroke timing data template*; and *verifying* said second and subsequent absolute data samples *against the non-repudiated data sample template to determine consistency or inconsistency between the subsequent absolute data samples as compared to the non-repudiated data sample template.*
(Emphasis Added)

The Applicant respectfully submits that Cho fails to disclose, teach, or suggest all elements of the rejected claim for at least the reasons that follow. Specifically, Cho fails to disclose the above-emphasized elements of amended claim 21. The Cho reference does not disclose or teach the timing as "absolute." Absolute time is defined as "duration, considered independently of

of any system of measurement or any employment of terms which designate limited portions thereof" (onlinedictionary.datasegment.com). Cho teaches away from "absolute keystroke timing" by disclosing and teaching a timing vector having a "duration of key strokes and interval times between them" (column 3, lines 45-52). Furthermore, Applicant amended claim 21 to include "merging the second and subsequent absolute keystroke timing data with the keystroke timing data template to create an updated, merged keystroke timing data template." However, Cho discloses a timing vector with a limiting "predetermined threshold" (column 3, line 9) and does not teach or disclose a feature that updates a data template as new data is received.

Cho also does not disclose the claimed verification of the "second and subsequent absolute data samples against the non-repudiated data sample template to determine consistency or inconsistency between the subsequent absolute data samples as compared to the non-repudiated data sample template." Therefore, Applicant respectfully requests reconsideration and withdrawal of the claim 102(b) rejections based on Cho.

II. Response to Claim Rejections Based on Obviousness

In the Office Action, claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cho et al. (U.S. Patent No. 6,151,593, hereinafter referred to as "Cho") in view of Gressel (U.S. Patent No. 6,311,272). Applicant respectfully traverses this rejection.

Applicant respectfully submits that since claim 2 depends on independent claim 1, claim 2 contains all the limitations of independent claim 1. Since independent claim 1 should be allowed, as argued herein, pending dependent claim 2 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

The Applicant also respectfully submits that U.S. Patent No. 6,311,272 to Gressel does not make obvious the present invention and provide any missing teachings to render this claim obvious. The Gressel reference used by the examiner deals with physical biometrics whereas the present invention deals with behavioral biometrics. This is important since the technology of updating in physical biometrics is based on a static set of known attributes such as proximity and threshold whereas the present invention updates data that is based on a seemingly unbounded set of

attributes (proximity and threshold are not static). Therefore, claim 2 should be allowed for at least the above reasons.

In the Office Action, claims 5-14 and 17-20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cho et al. (U.S. Patent No. 6,151,593, hereinafter referred to as "Cho") in view of Gressel (U.S. Patent No. 6,311,272) in further view of Bender et al. (U.S. Patent No. 7,206,938, hereinafter referred to as "Bender"). Applicant respectfully traverses this rejection.

Since independent claims 7 and 20 include similar limitations as discussed with regard to claim 1 and 21, for at least the above stated reasons the claim 102(b) rejection based on Cho should be withdrawn.

Applicant also respectfully submits that U.S. Patent No. 6,311,272 to Gressel and U.S. Patent No. 7,206,938 to Bender do not provide the missing motivation, along with the primary reference, to sustain the Examiner's rejection. Therefore, claims 7 and 20 should be allowed for at least the above reasons.

Applicant also respectfully submits that since claims 5 and 6 depend on independent claim 1, these claims contain all of the limitations of independent claim 1 and since independent claim 1 should now be allowable, as argued herein, pending dependent

claims 5 and 6 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

Applicant also respectfully submits that since claims 8-14 and 17-19 depend on independent claim 7, claims 8-14 and 17-19 contain all the limitations of independent claim 7 and should be allowed as dependent on allowable independent claim 7 as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

In the Office Action, claim 15 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cho et al. (U.S. Patent No. 6,151,593, hereinafter referred to as "Cho") in view of Gressel (U.S. Patent No. 6,311,272) in further view of Bender et al. (U.S. Patent No. 7,206,938, hereinafter referred to as "Bender") in further view of Kanevsky et al. (U.S. Patent No. 6,092,192 hereinafter referred to as "Kanevsky"). Applicant respectfully traverses this rejection.

Applicant also respectfully submits that since claim 15 depends on independent claim 7, claim 15 contains all the limitations of independent claim 7 and since independent claim 7 should be allowed, as argued herein, pending dependent claim 15

should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

Applicant also respectfully submits that U.S. Patent No. 6,092,192 to Kanevsky does not make obvious claim 15, as amended, including it's independent claim. Therefore, claim 15 should be allowed for at least the above reasons.

In the Office Action, claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cho et al. (U.S. Patent No. 6,151,593, hereinafter referred to as "Cho") in view of Gressel (U.S. Patent No. 6,311,272) in further view of Bender et al. (U.S. Patent No. 7,206,938, hereinafter referred to as "Bender") in further view of Brown et al. (U.S. Patent No. 6,618,806, hereinafter referred to as "Brown"). Applicant respectfully traverses this rejection.

Applicant also respectfully submits that since claim 16 depends on independent claim 7, claim 16 contains all the limitations of independent claim 7. Since independent claim 7 should be in condition for allowance, as argued herein, pending dependent claim 16 should be allowable as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

III. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and comments and for at least the reasons set forth above, Applicant respectfully submits that all rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1-21 are in condition for allowance. Applicant has responded to all of the Examiner's requests. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. The examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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